IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appl. No. 369 of 2004

Kameshwar Prasad Bhatt
S/o Sri Bishmabhar Datt Bhatt
Patwari Tehsil Purola,
District Uttarkashi.

.....Applicants

Versus

1. State of Uttaranchal

.....Respondents.

Mr. D.S. Rawal, Advocate for the applicant.
Mr. Lalit Verma, A.G.A. for respondent State.

Hon'ble Prafulla, C. Pant, J.

Heard Mr. D.S. Rawal, learned counsel for the petitioner and Mr. Lalit Verma, A.G.A. for the respondent State.

2) By means of this petition, moved under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter for brevity Cr. P.C.), the petitioner has sought quashing of the Special Sessions Trial No. 05 of 2003, pending before the II Additional Sessions Judge, Anti Corruption, Nainital.

3) The proceedings in the aforesaid case relate to the offences punishable under Section 7/13(i)(4)(d) read with Section 12(2) of the Prevention of Corruption Act, 1988.

4) Learned counsel for the petitioner argued that the sanction to prosecute the petitioner is not valid in law. In

support of his submissions Mr. Rawal, learned counsel for the petitioner, referred before this Court principle of law contained in ***Dilawar Singh Vs. Parvinder Singh and another, reported in (2006) 1 Supreme Court Cases (Cri) 727; State of Goa Vs. Banu Thomas, reported in 2005 Supreme Court Cases (Cri) 1995 and Vineet Narain and others Vs. Union of India and others, reported in A.I.R. 1998 SUPREME COURT 889.*** I have gone through the aforesaid case laws and perused the relevant papers of this case. Annexure-B to the petition shows that the sanction was granted by the District Magistrate, Uttarkashi, Appointing Authority of the Petitioner, on 8th April, 2003, for prosecuting him. Copy of the charge sheet (Annexure-A to the petition) shows that the same is filed four months after obtaining sanction on 8th August, 2003. As such, in the opinion of this Court, the previous sanction as required under Section 19(1) of the Prevention of Corruption Act, 1988, was obtained to prosecute the petitioner.

5) As far as the aforementioned case laws are concerned, in State of Goa Vs. Babu Thomas (supra), the sanction was granted by the Authority, who was not competent to grant it. IN Dilawar Singh Vs. Parvinder Singh and another (supra) is was found that the sanction was obtained against a senior officer, and the junior officer was prosecuted without sanction. In said circumstances, the Apex court held that merely by obtaining sanction for one officer, the same sanction can not be applied for the officer junior to him for prosecuting him. Similarly, the facts of Vineet Narain (supra) is different and not applicable to the present case.

6) In view of the above discussion, and also keeping in view provisions contained in Clause (c) of sub-section (3) of Section 19 of the Prevention of Corruption Act, 1988, which bars the Courts to stay the proceedings under aforesaid Act, this petition is liable to be dismissed. Accordingly, the petition moved under Section 482 of the Cr. P.C. is dismissed. (All other pending applications in this petition also disposed of).

(Prafulla, C. Pant, J.)

Dt. October 17, 2006.
H.Negi